
STATUTORY INSTRUMENTS

1991 No. 762

The Food Safety(Northern Ireland) Order 1991

PART II

GENERAL PROVISIONS AS TO FOOD

Food safety

Emergency prohibition notices and orders

11.—(1) If an authorised officer is satisfied that the health risk condition is fulfilled with respect to any food business, he may, by a notice served on the proprietor of the business (an “emergency prohibition notice”), impose the appropriate prohibition.

(2) If a magistrates' court is satisfied, on the application of such an officer, that the health risk condition is fulfilled with respect to any food business, the court shall, by order (an “emergency prohibition order”), impose the appropriate prohibition.

(3) An authorised officer shall not apply for an emergency prohibition order unless, at least one day before the date of the application, he has served notice on the proprietor of the business of his intention to apply for the order.

(4) Paragraphs (2) and (3) of Article 10 shall apply for the purposes of this Article as they apply for the purposes of that Article, but as if the reference in paragraph (2) to risk of injury to health were a reference to imminent risk of such injury.

(5) As soon as practicable after the service of an emergency prohibition notice, the district council or, as the case may be, the Department of Agriculture shall affix a copy of the notice in a conspicuous position on such premises used for the purposes of the business as it considers appropriate; and any person who knowingly contravenes such a notice shall be guilty of an offence.

(6) As soon as practicable after the making of an emergency prohibition order, the district council or, as the case may be, the Department of Agriculture shall—

- (a) serve a copy of the order on the proprietor of the business; and
- (b) affix a copy of the order in a conspicuous position on such premises used for the purposes of that business as it considers appropriate;

and any person who knowingly contravenes such an order shall be guilty of an offence.

(7) An emergency prohibition notice shall cease to have effect—

- (a) if no application for an emergency prohibition order is made before the expiration of the period of 3 days from the service of the notice, at the end of that period;
- (b) if such an application is so made, on the determination or abandonment of the application.

(8) An emergency prohibition notice or emergency prohibition order shall cease to have effect on the issue by the district council or, as the case may be, the Department of Agriculture of a certificate to the effect that it is satisfied that the proprietor has taken sufficient measures to secure that the health risk condition is no longer fulfilled with respect to the business.

(9) The district council or, as the case may be, the Department of Agriculture shall issue a certificate under paragraph (8) before the expiration of 3 days from being satisfied as mentioned in that paragraph; and, on an application by the proprietor for such a certificate, shall—

- (a) determine, as soon as is reasonably practicable and in any event before the expiration of 14 days from the making of the application, whether or not it is so satisfied; and
- (b) if it determines that it is not so satisfied, give notice to the proprietor of the reasons for that determination.

(10) Where an emergency prohibition notice is served on the proprietor of a business, the district council or, as the case may be, the Department of Agriculture shall compensate him in respect of any loss suffered by reason of his complying with the notice unless—

- (a) an application for an emergency prohibition order is made before the expiration of 3 days from the service of the notice; and
- (b) the court declares itself satisfied, on the hearing of the application, that the health risk condition was fulfilled with respect to the business at the time when the notice was served;

and any disputed question as to the right to or the amount of any compensation payable under this paragraph shall be determined by a single arbitrator appointed, failing agreement between the parties, by the Head of the Department concerned; and the provisions of the Arbitration Act (Northern Ireland) 1937(1) shall apply accordingly.